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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,054	08/09/2005	Ruediger Eichler	17413-0003	3139

7590 10/17/2006
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EXAMINER

CHEN, VICTORIA W

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/525,054	Applicant(s) EICHLER, RUEDIGER	
	Examiner Victoria W. Chen	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/17/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: on page 3, line 25, the phrase "whereby the common shield preferably being applied to ground potential" is suggested to be changed to --whereby the common shield is preferably applied to ground potential--.

On page 4, line 2, "electro-impedance tomog raphy" should be changed to --electroimpedance tomography-- for consistency.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Line 7 in claim 1 recites "whereas the contact medium contains ions in aqueous solution" which suggests a liquid used as the contact medium. However, claim 2 recites "wherein the contact medium is a liquid, a gel, a foam or a paste" which broadens the claim limitations of claim 1.

Claim 11 provides for the use of a measuring electrode arrangement for electroimpedance tomography, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Vaughan et al. (US Pat. No. 4559950). Vaughan discloses an electrode arrangement [20] with a measuring electrode with a storage space [52] containing a gel-based contact medium [60] [col. 4, ln. 19-20], an adhesive layer [32] and a plastic layer [64] bordering the storage space [Fig. 4]. The contact medium disclosed contains ions which can penetrate through the electrode [col. 5, ln. 21-26]. Applicant should note that the electrode disclosed by Vaughan is made of conductive material [col. 3, ln. 45-47] such as metal, which is impermeable to a liquid.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaughan et al. as applied to claims 1-4 above, and further in view of Kroll et al. (US Pat. No. 4763660). Vaughan discloses all the limitations as described above, however, fails to disclose an electric shield. Kroll teaches the use of a common electric shield [col. 6, ln. 17-33] located on the side away from the measurement object [Fig. 6] comprised of a conductive material for reducing electrical interference for a plurality of measuring electrodes [Fig. 5]. Kroll also teaches the use of an expandable electrode belt [Fig. 4, col. 4, ln. 48-68] on the body for ease of measuring electrical signals for medical diagnostic and therapeutic purposes [col. 1, ln. 11-15]. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Vaughan's invention with a common electric shield and a belt-like carrier as is commonly used in conjunction with measuring electrode arrangements to effect superior signal detection.

Claims 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaughan et al. as applied to claims 1-4 above, and further in view of Gadsby et al. (US Pat. No.

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5341806). Vaughan discloses all the limitations as described above, however, fails to disclose an electric shield. Gadsby teaches a plurality of measuring electrodes with a common shield [col. 14, ln. 57-64] on an expandable belt [col. 16, ln. 32-36] for body surface potential mapping. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Vaughan's invention with an electric shield and a belt-like carrier as is commonly used in conjunction with measuring electrode arrangements to effect superior signal detection.

Regarding claim 7, although individual electric shields were not specifically disclosed above, it would have been obvious to one of ordinary skill in the art at the time of invention to assume individual electric shields produce the same effect as a common electric shield.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 6526303 B1 Scampini; Steven Anthony Disposable defibrillation and external pacing electrode

US 6301493 B1 Marro; Dominic P. et al. Reservoir electrodes for electroencephalograph headgear appliance

US 3942517 A Bowles; Leslie Reginald et al. Electrodes

US 5582587 A Gyory; J. Richard et al. Iontophoretic delivery device and method of hydrating same

US 6488428 B1 Fischer; Gregory A. Fluid assembly containing a breaking component for release of fluid and method therefore

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victoria W. Chen whose telephone number is (571) 272-3356. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

VWC
10/11/06



Lee Cohen
Primary Examiner